

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**ALFRED TUCKER,**

**Defendant.**

**CASE NO. 8:10CR369**

**ORDER**

This matter is before the Court on its own motion.

On August 1, 2013, the Defendant, Alfred Tucker, filed a motion to vacate, etc., under 28 U.S.C. § 2255 (Filing No. 104) and a motion for leave to proceed in forma pauperis (Filing No. 105). The Defendant has an appeal currently pending before the Eighth Circuit and the Eighth Circuit has set a briefing schedule in the matter on appeal. (Filing No. 103.) Therefore, in light of the pending appeal, this Court is without jurisdiction to consider the § 2255 motion. The § 2255 motion will be stayed pending the disposition of the appeal.

**IT IS ORDERED:**

1. The Defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Filing No. 104) and the Defendant's motion for Leave to Proceed in Forma Pauperis (Filing No. 105) are stayed pending disposition of the appeal; and

2. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 6<sup>th</sup> day of August, 2013.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge